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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 MYKAL S. RYAN,

12 Plaintiff,

13 vs.

14 UNITED STATES OF AMERICA,

15 Defendant.

CASE NO. 11 CV 1992 MMA (RBB)

**ORDER GRANTING
DEFENDANT'S MOTION TO
DISMISS**

[Doc. No. 6]

16 Currently before the Court is Defendant United States of America's motion to dismiss
17 Plaintiff Mykal Ryan's complaint, or in the alternative, for summary judgment. For the reasons set
18 forth below, the Court **GRANTS** Defendant's motion to dismiss.

19 **BACKGROUND**

20 On August 30, 2011, Plaintiff Mykal S. Ryan initiated this action against individual
21 Defendant Timothy C. Stutler, alleging Mr. Stutler and his agents falsified information, fabricated
22 evidence, and otherwise endeavored to obstruct several proceedings initiated by Plaintiff in the
23 Southern District of California. [Doc. No. 1.] On October 26, 2011, the Court substituted the
24 United States of America ("Defendant") in place and stead of AUSA Stutler, pursuant to the
25 Federal Employees Liability Reform and Tort Compensation Act of 1988. [Doc. No. 5.]

26 On November 1, 2011, Defendant filed a motion to dismiss Plaintiff's complaint, or in the
27 alternative, for summary judgment. [Doc. No. 6.] The Court set Defendant's motion for hearing
28 on December 27, 2011. Plaintiff did not file an opposition, but instead, on December 19 filed a

1 request to stay the proceedings for 150 days to provide him additional time to oppose Defendant's
2 motion. [Doc. No. 8, ¶6.]

3 Plaintiff argued he needed additional time to oppose Defendant's motion because he
4 suffers from "major depression" caused by Post Traumatic Stress Disorder (PTSD), which has
5 prevented him from working on his opposition. [*Id.* ¶¶2-3.] Plaintiff was diagnosed with PTSD in
6 August 2005 after serving twenty months in Iraq as an Army soldier. [*Id.* ¶3.] The Court granted
7 Plaintiff additional time to oppose the pending motion, and instructed him to file an opposition no
8 later than February 6, 2012. [Doc. No. 9.] To date, no opposition has been filed.

9 DISCUSSION

10 The Ninth Circuit has held a district court may properly grant an unopposed motion to
11 dismiss pursuant to a local rule where the local rule permits, but does not require, the granting of a
12 motion for failure to respond. *See generally, Ghazali v. Moran*, 46 F.3d 52, 53 (9th Cir. 1995).
13 Local Civil Rule 7.1(f)(3)(c) provides that "[i]f an opposing party fails to file papers in the manner
14 required by Local Rule 7.1(e)(2), that failure may constitute a consent to the granting of that
15 motion or other ruling by the court." As such, the Court has the option of granting Defendant's
16 motion to dismiss on the basis of Plaintiff's failure to respond, and it chooses to do so.

17 Generally, public policy favors disposition of cases on their merits. *See, e.g., Hernandez v.*
18 *City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998). However, a case cannot move forward
19 toward resolution on the merits when the plaintiff fails to defend his case against dispositive
20 motions. Thus, this policy lends little support to a party whose responsibility it is to move a case
21 toward disposition on the merits but whose conduct impedes or completely prevents progress in
22 that direction. *See In re Eisen*, 31 F.3d 1447, 1454 (9th Cir. 1994). In addition, management of
23 this Court's docket is of vital significance to the proper and timely resolution of matters before it.
24 Consequently, granting Defendant's unopposed motion to dismiss, which has been pending since
25 November 2011, facilitates the Court's management of its docket.

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CONCLUSION

Accordingly, for the reasons stated above, the Court **GRANTS** Defendant's motion to dismiss and **DISMISSES** Plaintiff's claims without prejudice. The Clerk of Court is instructed to close the case file.

IT IS SO ORDERED.

DATED: February 15, 2012

A handwritten signature in black ink, reading "Michael M. Anello", written over a horizontal line.

Hon. Michael M. Anello
United States District Judge